

May 22, 2000

Via Hand Delivery

Lawrence M. Noble, Esq.  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: MUR 5003

Dear Mr. Noble:

This is in response to the May 1, 2000, Federal Election Commission ("Commission") letter notifying Bush for President, Inc. and David Herndon as Treasurer (collectively "BFP") of a complaint filed by Kai Kestutis Abelkis ("complainant") in the above-referenced matter, which we received on May 5, 2000. For the reasons set forth below, the Commission should find that there is no reason to believe that BFP committed a violation and should promptly dismiss the complaint.

The complaint alleges that that the Denver Bronco, and by implication BFP, may have violated the Commission's regulations on March 9, 2000 when "Republican Presidential Contender George W. Bush spoke at a rally to about 500 Supporters outside the Denver Bronco's training facility in Arapahoe County, Colorado." Complaint at 1. The complaint also quotes several newspaper articles that reported on the event.

The complaint appears to presume that the mere use of corporate facilities to conduct an event for a federal candidate is a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Commission's regulations. Of course, such a presumption is flatly inconsistent with decades of Commission regulations and advisory opinions and should be summarily rejected.

11 C.F. R. § 114.9(d) states that when campaign staff and volunteers "make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election [the campaign is] required to reimburse the corporation or labor organization within a commercially reasonable time in the amount of the normal and usual rental charge, as defined in 11 CFR 100.7(a)(1)(iii)(B), for the use of the facilities." See also

[www.GeorgeWBush.com](http://www.GeorgeWBush.com)

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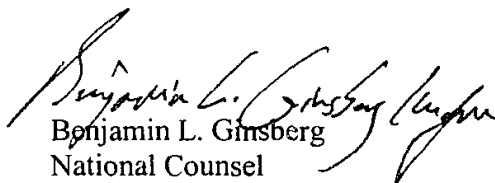
FEC Advisory Opinion 1978-34, Fed. Election Camp. Fin. Guide (CCH ¶ 5328) (July 17, 1978) (confirming that corporations need not be reimbursed in advance but within a commercially reasonable time and defining the "normal and usual rental charge" as "the price of those goods in the market from which they ordinarily would have been purchased").

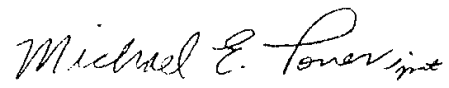
In addition, 11 C.F. R. § 114.13 states that "Notwithstanding any other provisions of part 114, a corporation or labor organization which customarily makes its meeting rooms available to clubs, civic or community organizations, or other groups may make such facilities available to a political committee or candidate, if the meeting rooms are made available to any candidate or political committee upon request and on the same terms given to other groups using the meeting rooms."

The event referenced in the complaint was conducted in full compliance with the foregoing Commission regulations. BFP hired a consultant, ShowTell Productions, to put on the event and pay the appropriate costs of the rally. BFP received 2 invoices (one for \$12,420 and one for \$2,500) from ShowTell productions for the costs associated with the event, such as sound, lighting, staging, pyro, décor, seating, power distribution for the filing center, and runs for computer and lighting. BFP cut a vendor reimbursement check to ShowTell Productions on the day of the event for \$15,920 to cover both of these invoices. BFP's reimbursement was duly reported on its April 20<sup>th</sup> FEC report.

In light of the foregoing, there is absolutely no legal or factual basis for the complaint. Accordingly, the Commission should find that there is no reason to believe that BFP violated the Act and should dismiss the complaint.

Respectfully submitted,

  
Benjamin L. Ginsberg  
National Counsel

  
Michael E. Toner  
General Counsel